

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Banker License of: No. 09F-BD014-BNK

3 **SECURITY NATIONAL MORTGAGE**
4 **COMPANY, AND**
5 **JACK BECKSTEAD, JR., PRESIDENT**
410 North 44th Street, Suite 190
Phoenix, AZ 85008

NOTICE OF HEARING



6 Petitioners.

7
8 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137, 6-
9 138, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative
10 Hearings, an independent agency, and is scheduled for October 16, 2008 at 1:30 p.m., at the Office
11 of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826
12 (the "Hearing").

13 The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order
14 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
15 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
16 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
17 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
18 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-945; and (4) an order or any
19 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage
20 bankers pursuant to A.R.S. §§ 6-123 and 6-131.

21 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
22 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
23 or expressed, to the Director of the Office of Administrative Hearings or the director's designee to
24 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
25 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
26 of Administrative Hearings has designated Thomas Shedden at the address and phone number listed

1 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
2 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
3 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
4 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
5 Judge is specifically prohibited from entering.

6 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
7 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
8 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
9 Administrative Hearings.

10 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
11 counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity
12 to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses
13 in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to
14 compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),
15 any person may appear on his or her own behalf or by counsel.

16 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
17 made by a court reporter or by electronic means. Any party that requests a transcript of the
18 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

19 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
20 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

21 **NOTICE OF APPLICABLE RULES**

22 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
23 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
24 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
25 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
26 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through

1 R2-19-122. A copy of these rules is enclosed.

2 Pursuant to A.A.C. R20-4-1209, Petitioners shall file a written answer **within twenty (20)**
3 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioners' position
4 or defense and shall specifically admit or deny each of the assertions contained in this Notice of
5 Hearing. If the answering Petitioners are without or are unable to reasonably obtain knowledge or
6 information sufficient to form a belief as to the truth of an assertion, Petitioners shall so state, which
7 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioners
8 intend to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioners
9 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised
10 in the answer is deemed waived.

11 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioners will be**
12 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
13 true and admitted and the Superintendent may take whatever action is appropriate, including
14 suspension or revocation of Petitioners' license and imposition of a civil penalty or restitution to any
15 injured party.

16 Petitioners' answer shall be mailed or delivered to the Arizona Department of Financial
17 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
18 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
19 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
20 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

21 **Persons with disabilities may request reasonable accommodations such as interpreters,**
22 **alternative formats, or assistance with physical accessibility.** Requests for special
23 accommodations must be made as early as possible to allow time to arrange the accommodations. If
24 accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

1 **FACTS**

2 1. Security National Mortgage Company (hereinafter "Security") is an Arizona
3 corporation authorized to transact business in Arizona as a mortgage banker, license number BK
4 0904315, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of Security's business is that of
5 making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan
6 secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

7 2. Petitioner Jack Beckstead, Jr. ("Mr. Beckstead") is the President of Security National
8 Mortgage Company and is authorized to transact business in Arizona as a mortgage banker within
9 the meaning of A.R.S. § 6-941(5), as outlined within A.R.S. § 6-943(F).

10 3. Security National Mortgage Company and Mr. Beckstead are not exempt from
11 licensure as mortgage bankers within the meaning of A.R.S. §§ 6-942 and 6-941(5).

12 4. A March 17, 2008, examination of Security conducted by the Department, revealed
13 that Security and Mr. Beckstead:

14 a. Failed to obtain a branch office license when conducting business at more than
15 one location; specifically:

16 i. A review of closed loans disclosed the Petitioners originated the following
17 brokered loans from ten (10) unlicensed branches:

<u>UNLICENSED BRANCH LOCATION</u>	<u>LOAN #</u>	<u>BORROWER</u>
1. 474 W. 800 North, Ste. 102	399816	K. MURPHY
Orem, Utah	378241	M. COMSA
2. 4045 NW 6 TH Street, Ste. 500	371033	V. STRANGE
Oklahoma City, Oklahoma	379890	R. RIVAS
3. 9149 South Monroe, Ste. A	348125	T. HANNA
Sandy, Utah	386280	V. CRUZ
	349291	F. CELAYA
4. 2101 Business Center Dr., Ste. 214	377154	N. GANT

1	Irvine, California	354325	J. MURRAY
2	5. 27433 Tourney Road, Ste. 220	344189	P. Santos
3	Valencia, California		
4	6. 970 E. Murray-Holladay Rd., Ste. 4A	339524	J. JARVIS
5	Salt Lake City, Utah		
6	7. 5251 Green Street, Ste. 350	466589	T. DAVIS
7	Salt Lake City, Utah		
8	8. 7676 Hazard Center Drive, Ste. 625	395431	S. DAVIS
9	San Diego, California		
10	9. 6975 South Union Park, Ste. 150	337265	A. JUDD
11	Midvale, Utah	346685	T. LAU
12	10. 6900 College Blvd., Ste. 950	399874	B. INMAN
13	Overland Park, Kansas		

b. Failed to conduct the minimum elements of reasonable employee investigations before hiring employees; specifically:

- i. Failed to collect and review all of the documents authorized by the Immigration and Control Act of 1986 before hiring at least six (6) employees;
- ii. Failed to date a completed "I9" (Employment Eligibility Verification Form) before hiring at least four (4) employees;
- iii. Failed to consult with the applicant's most recent or next most recent employer before hiring at least six (6) employees;
- iv. Failed to inquire regarding an applicant's qualifications and competence for the position before hiring at least six (6) employees;
- v. Failed to obtain a credit report before hiring at least one (1) employee;
- vi. Failed to obtain a credit report in a timely manner before hiring at least

- 1 five (5) employees, and on at least two (2) employees a credit report
2 contained derogatory credit without any further explanation obtained; and
3 vii. Failed to correct these violations from their previous examination;
- 4 c. Failed to provide a complete loan application listing; specifically:
- 5 i. Failed to include a provision for the name of the loan officer;
- 6 ii. Failed to include a provision for the name of the applicant's name;
- 7 iii. Failed to include a provision for the name of the final disposition on the
8 Cancel/Deny/Withdrawn list;
- 9 iv. Failed to include a provision for the name of the loan officer on the
10 Cancel/Deny/Withdrawn list;
- 11 v. Failed to include a provision for the loan amount on the
12 Cancel/Deny/Withdrawn list;
- 13 vi. Failed to include a provision for the application date on the
14 Cancel/Deny/Withdrawn list; and
- 15 vii. Failed to correct these violations from their previous examination;
- 16 d. Failed to comply with the disclosure requirements of Title I of the Consumer
17 Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate
18 Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the
19 regulations promulgated under these acts; specifically:
- 20 i. Failed to complete the initial truth-in-lending form, on at least one (1)
21 borrower; and
- 22 e. Failed to ensure that the responsible individual maintained a position of active
23 management and failed to ensure that the responsible individual was
24 knowledgeable about Arizona activities, specifically, Petitioners' responsible
25 individual:
- 26

- i. Steven Mathena was issued a 1099 in 2006 and 2007, instead of being a W-2 employee as required; and
- ii. Steven Mathena has not supervised compliance to Arizona statutes and rules;

5. Based upon the above findings, the Department issued and served upon Security and Mr. Beckstead an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease and Desist Order") on July 22, 2008.

6. On August 19, 2008, Petitioners filed a Request For Hearing to appeal the Cease and Desist Order.

LAW

1. Pursuant to A.R.S. §§ 6-941, *et seq.*, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage banker business and with the enforcement of statutes, rules and regulations relating to mortgage bankers.

2. By the conduct set forth in the Findings of Facts, Security National Mortgage Company, and Mr. Beckstead have violated the mortgage banker statutes and rules as follows:

- a. A.R.S. § 6-944(D) by failing to obtain a branch office license when conducting business at more than one location;
- b. A.R.S. § 6-943(O) and A.A.C. R20-4-102 by failing to conduct the minimum elements of reasonable employee investigations before hiring employees;
- c. A.A.C. R20-4-1806(B)(1) by failing to maintain a list of all executed loan applications or executed fee agreements;
- d. A.R.S. § 6-946(E) and A.A.C. R20-4-1806(B)(6)(e) by failing to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts; and


1 e. A.R.S. § 6-943(F) and A.A.C. R20-4-102 by failing to ensure that the
2 responsible individual maintains a position of active management and failing to
3 ensure that the responsible individual is knowledgeable about Arizona activities.

4 3. The violations, set forth above, constitute grounds for: (1) the issuance of an order
5 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
6 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
7 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
8 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
9 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-945; and (4) an order or any
10 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage
11 bankers pursuant to A.R.S. §§ 6-123 and 6-131.

12 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more
13 of the above-described violations, the Superintendent may affirm the July 22, 2008, Cease and
14 Desist Order pursuant to A.R.S. § 6-137; impose a civil money penalty pursuant to A.R.S. § 6-132;
15 suspend or revoke Petitioners' license pursuant to A.R.S. § 6-945; and order any other remedy
16 necessary or proper for the enforcement of statutes and rules regulating mortgage bankers pursuant
17 to A.R.S. §§ 6-123 and 6-131.

18
19 DATED this 10 day of September, 2008.

20 Felecia A. Rotellini
21 Superintendent of Financial Institutions

22 By 
23 Robert D. Charlton
24 Assistant Superintendent of Financial Institutions
25
26

1 ORIGINAL of the foregoing filed this 10th
2 day of September, 2008, in the office of:

3 Felecia A. Rotellini
4 Superintendent of Financial Institutions
5 Arizona Department of Financial Institutions
6 ATTN: Susan L. Longo
7 2910 N. 44th Street, Suite 310
8 Phoenix, AZ 85018

9 COPY of the foregoing mailed/delivered same date to:

10 Administrative Law Judge Thomas Shedden
11 Office of the Administrative Hearings
12 1400 West Washington, Suite 101
13 Phoenix, AZ 85007

14 Craig A. Raby
15 Assistant Attorney General
16 Office of the Attorney General
17 1275 West Washington
18 Phoenix, AZ 85007

19 Robert D. Charlton, Assistant Superintendent
20 Chris Dunshee, Senior Examiner
21 Arizona Department of Financial Institutions
22 2910 N. 44th Street, Suite 310
23 Phoenix, AZ 85018

24 AND COPY MAILED SAME DATE by
25 Certified Mail, Return Receipt Requested, to:

26 Jack Beckstead, Jr., President
Security National Mortgage Company
410 North 44th Street, Suite 190
Phoenix, AZ 85008

Jack Beckstead, Jr., President
Security National Mortgage Company
5300 South 360 West, Suite 150
Salt Lake City, UT 84213

Steven Mathena
Statutory Agent and Responsible Individual for:
Security National Mortgage Company
5329 W. Electra Lane
Glendale, AZ 85310

1 Jeffrey Stephens
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3 5300 South 360 West Suite 250
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5 By: Ausan L. Lingo
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